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MAILED

JUN 30 2009

OFFICE OF PETITIONS

Paper No. 17

In re Application of :
Biran GIORA :
Application No. 09/773,227 : DECISION ON PETITION
Filed: January 31, 2001 :
Attorney Docket No. CH9-2000-0065 :
:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2003. A Notice of Abandonment was mailed to applicant on March 25, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

It is noted that Drumheller's statement filed June 05, 2008, indicates the time of lighting strike to have been in 2003. The instant renewed petition states the lighting strike had to have occurred prior to September 21, 2001. These mutually contradictory dates for lighting strike are not properly

explained in the instant petition. Ascribing such a discrepancy in dates to medication induced memory problems cannot be accepted, absent any certification(s) from a physician directly familiar with the medical condition/treatment of Mr. Drumheller in the time period when the application became abandoned. The statement in the instant petition, that the Office Action of July 25, 2003 was either not received or misplaced by Mr. Drumheller, cannot be accepted without supporting evidence.

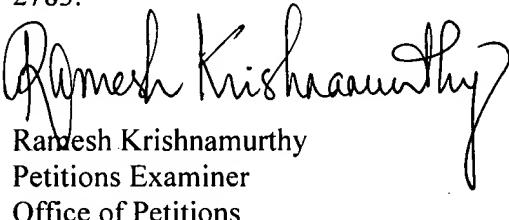
Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions